

JS 44 (Rev. 12/07)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**  
TARRON HARRIS**DEFENDANTS**  
NATIONAL RECOVERY AGENCY(b) County of Residence of First Listed Plaintiff PHILADELPHIA  
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)  
CRAIG THOR KIMMEL, KIMMEL & SILVERMAN, P.C.  
30 EAST BUTLER PIKE, AMBLER, PA 19002  
(215) 540-8888 EXT. 116

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. 1692k

Brief description of cause:

Fair Debt Collection Practices Act

**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23**DEMAND \$**

CHECK YES only if demanded in complaint:

**JURY DEMAND:** ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

05/11/2015

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

TARRON HARRIS	:	CIVIL ACTION
	:	
v.	:	
NATIONAL RECOVERY AGENCY	:	NO.
	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

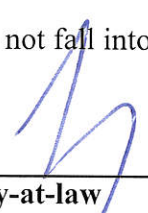
- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (x)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

05-11-15

**Date**

(215) 540-8888

**Telephone**

  
**Attorney-at-law**

(877) 788-2864

**FAX Number**

Plaintiff, Tarron Harris

**Attorney for**

kimmel@creditlaw.com

**E-Mail Address**



## UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 5305 Wyalusing Avenue, Philadelphia PA 19131

Address of Defendant: 2491 Paxton Street, Harrisburg, PA 17111

Place of Accident, Incident or Transaction: \_\_\_\_\_

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases  
(Please specify) 15 U.S.C. § 1692

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify) \_\_\_\_\_

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Thor Kimmel

, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 05/11/15

Attorney-at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 05/11/15

Attorney-at-Law

57100

Attorney I.D.#



1 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising  
2 under the laws of the United States.

3  
4 3. Defendant conducts business in the Commonwealth of Pennsylvania  
5 and as such, personal jurisdiction is established.

6 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).  
7

### 8 **PARTIES**

9 5. Plaintiff is a natural person residing in Philadelphia, Pennsylvania  
10 19131.

11 6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C.  
12 §1692a(3).  
13

14 7. Defendant is a national debt collection company with its corporate  
15 headquarters located at 2491 Paxton Street, Harrisburg, Pennsylvania 17111.

16 8. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §  
17 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.  
18

19 9. Defendant acted through its agents, employees, officers, members,  
20 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
21 representatives, and insurers.  
22

### 23 **FACTUAL ALLEGATIONS**

24 10. At all pertinent times hereto, Defendant was hired to collect a  
25 consumer debt and attempted to collect that debt from Plaintiff.

1           11. Defendant collects, and attempts to collect, debts incurred, or alleged  
2 to have been incurred, for personal, family, or household purposes on behalf of  
3 creditors using the U.S. Mail, telephone and/or internet.  
4

5           12. The debt Defendant was seeking to collect, a credit card, arose out of  
6 transactions that were primarily for personal, family, or household purposes.  
7

8           13. Beginning in or around April 2014 and continuing through July 2014,  
9 Defendant repeatedly contacted Plaintiff on his home and cellular telephones  
10 seeking and demanding payment of an alleged debt.

11           14. Defendant contacted Plaintiff multiple times a week, in its attempts to  
12 collect an alleged debt.  
13

14           15. For example, Defendant called Plaintiff on June 23, 2014, at 7:44  
15 p.m.; June 24, 2014, at 2:41 p.m.; June 27, 2014, at 3:54 p.m.; June 30, 2014, at  
16 3:43 p.m.; and July 2, 2014, at 4:48 p.m.  
17

18           16. It was aggravating, annoying and harassing for Plaintiff to receive  
19 continuous collection calls on his home and cellular telephones.

20           17. In response to Defendant's collection calls, on at least one occasion,  
21 Plaintiff instructed Defendant to stop calling him.  
22

23           18. Despite Plaintiff's clear request, Defendant continued to call Plaintiff  
24 on a continuous and repetitive basis.

25           19. Defendant knew that Plaintiff did not want to be called on his home

1 and cellular telephones, but continued to do so, with the intent to annoy, abuse and  
2 harass Plaintiff, hoping that such continued calls would cause Plaintiff to make  
3 payment on the alleged debt.  
4

5 20. Further, in response to Plaintiff's request that Defendant stop calling,  
6 Defendant threatened to "serve" Plaintiff with "legal papers."

7 21. Upon information and belief, Defendant did not intend to take legal  
8 action against Plaintiff, and did not have the legal authority to take legal action  
9 against Plaintiff.  
10

11 22. Also, Defendant threatened to have Plaintiff "locked up" if he did not  
12 pay the debt.  
13

14 23. Non-payment of a debt is not a criminal offense, and a person cannot  
15 be imprisoned for non-payment of a debt.

16 24. Defendant's threat to have Plaintiff locked up was false and made,  
17 upon information and belief, to scare and coerce Plaintiff into making payment on  
18 the alleged debt.  
19

20 25. Further, when speaking to Plaintiff, Defendant used profanity and  
21 other abusive and/or demeaning language.  
22

23 26. Finally, in its attempts to collect a debt, Defendant contacted Plaintiff  
24 at times when it was inconvenient for him to receive collection calls; specifically,  
25 Defendant called Plaintiff after 9:00 p.m. which is a *per se* inconvenient time to

1 receive collection calls.

2 27. Defendant called Plaintiff on July 14, 2014, at 10:23 p.m. See  
3 Exhibit A, Plaintiff's phone record.  
4

5 **DEFENDANT VIOLATED THE**  
6 **FAIR DEBT COLLECTION PRACTICES ACT**

7 **COUNT I**

8 28. Defendant's conduct, as detailed in the preceding paragraphs, violated  
9 15 U.S.C. § 1692c(a)(1).  
10

11 a. A debt collector violates § 1692c(a)(1) of the FDCPA by  
12 communicating with a consumer in connection with the  
13 collection of any debt at any unusual time or place or a time or  
14 place known or which should be known to be inconvenient to  
15 the consumer. In absence of knowledge of circumstances to the  
16 contrary, a debt collector shall assume that the convenient time  
17 for communicating with a consumer is after 8:00 a.m. and  
18 before 9:00 p.m., local time at the consumer's location.  
19

20 b. Here, Defendant violated § 1692c(a)(1) of the FDCPA when it  
21 called Plaintiff after 9:00 p.m.  
22

23 **COUNT II**

24 29. Defendant's conduct, as detailed in the preceding paragraphs, violated  
25 15 U.S.C. §§ 1692d and 1692d(2).



a. A debt collector violates § 1692d of the FDCPA by engaging in conduct of the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

b. A debt collector violates § 1692d(2) of the FDCPA by using obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

c. Here, Defendant violated §§ 1692d and 1692d(2) of the FDCPA by repeatedly contacting Plaintiff on his home and cellular telephones multiple times a week, and continuing to call Plaintiff after being told to stop calling him, as well as using profanity and other abusive language when speaking to Plaintiff.

### COUNT III

30. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C. §§ 1692e, 1692e(4) and 1692e(5) of the FDCPA.

a. A debt collector violates § 1692e of the FDCPA by using any false, deceptive or misleading representations or means in connection with the collection of any debt.

b. A debt collector violates § 1692e(4) of the FDCPA by

1 representing or implicating that nonpayment of any debt will  
2 result in the arrest or imprisonment of any person or the seizure,  
3 garnishment, attachment, or sale of any property or wages of  
4 any person unless such action is lawful and the debt collector or  
5 creditor intends to take such action.  
6

7 c. A debt collector violates § 1692e(5) of the FDCPA by  
8 threatening to take any action that cannot legally be taken or  
9 that is not intended to be taken.  
10

11 d. Here, Defendant violated §§ 1692e, 1692e(4) and 1692e(5) of  
12 the FDCPA by falsely threatening Plaintiff that he would be  
13 “locked up” and “served with legal papers” as non-payment of a  
14 debt is not a crime and it did not intend to take legal action and  
15 did not have authority to take legal action against Plaintiff.  
16

#### 17 **COUNT IV**

18  
19 31. Defendant’s conduct, as detailed in the preceding paragraphs, violated  
20 15 U.S.C. § 1692f of the FDCPA.

21 a. A debt collector violates § 1692f of the FDCPA by using unfair  
22 or unconscionable means to collect or attempt to collect any  
23 debt.  
24

25 b. Here, Defendant violated § 1692f of the FDCPA engaging in

1 other unfair and unconscionable debt collection practices,  
2 including failing to update its records to cease collection calls  
3 to Plaintiff's home and cellular telephones after he told them to  
4 stop calling.  
5

6 WHEREFORE, Plaintiff, TARRON HARRIS, respectfully prays for a  
7 judgment as follows:  
8

- 9 a. All actual damages suffered pursuant to 15 U.S.C.  
10 §1692k(a)(1);  
11 b. Statutory damages of \$1,000.00 for the violation of the FDCPA  
12 pursuant to 15 U.S.C. §1692k(a)(2)(A);  
13 c. All reasonable attorneys' fees, witness fees, court costs and  
14 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.  
15 §1693k(a)(3); and  
16 d. Any other relief deemed appropriate by this Honorable Court.  
17  
18

19 **DEMAND FOR JURY TRIAL**

20 PLEASE TAKE NOTICE that Plaintiff, TARRON HARRIS, demands a  
21 jury trial in this case.  
22  
23  
24  
25

RESPECTFULLY SUBMITTED,

Date: May 11, 2015

By: 

CRAIG THOR KIMMEL

Attorney ID No. 57100

Kimmel & Silverman, P.C.

30 E. Butler Pike

Ambler, PA 19002

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